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## ELECTION COMMISSION, INDIA

### NOTIFICATION

*New Delhi, the 11th May 1957.*

**S.R.O. 1520.**—In pursuance of the provisions of sub-section (1) of Section 80 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 140 of 1957, presented to the Commission on the 20th April, 1957 under Section 81 of the said Act, by Shri Ram Phal, son of Shri Raghu Nath Sahai, Caste Vaish Bansal, Advocate, 4544, Deputy Ganj, Sadar Bazar, Delhi calling in question the election to the House of the People from the Delhi Sadar constituency of that House of Shri Braham Prakash, 8, Underhill Lane, New Delhi.

Presented to me by Shri Ram Phal whose signature has been obtained in the margin and attested as having been signed before me this the Twentieth day of April, One Thousand Nine Hundred and Fifty Seven.

**DIN DAYAL,**

Under Secretary, Election Commission, India.

**RAM PHAL**

Petitioner.

*Attested*

**DIN DAYAL,**

20th April, 1957.

**BEFORE THE ELECTION COMMISSION, NEW DELHI.**

**ELECTION PETITION No. 140 of 1957**

Raghu Nath Sahai, Caste Vaish Bansal, Advocate, 4544, Deputy Ganj, Sadar Bazar, Delhi.—Petitioner.

**Vs.**

1. Shri Braham Prakash 8, Underhill Lane, New Delhi.
2. Shri Shyam Charan Gupta, House No. 4617, Deputy Ganj, Delhi.
3. Shrimati Gurcharan Kaur, 25-C, Railway Colony, Diplomatic Enclave, New Delhi.
4. Shri Hukam Chand, House No. 2895, Multani Dhanda, Gali No. 4, Paharganj, Delhi.

5. Shri Tribhuvan Dutt Bhuvnesh, House No. 2978, Bahadurgarh Road, Delhi.

6. Sodhi Pindi Das, House No. 5718, Plot No. 28 (North) Basti Harphool Singh, Delhi.—Respondents.

Election Petition u/s 80 of the Representation of the People Act, 1951. (Act No. 43 of 1951) and other provisions, to set aside the election of Respondent No. 1 from the Delhi Sadar Parliamentary Constituency No. 396.

The Petitioner submits as under:—

1. That the Petitioner is an elector of Delhi, Sadar Constituency (Parliamentary) being registered as Voter at Serial No. 2361, in the electoral area III (Deputy Ganj) of the Deputy Ganj Constituency, Delhi, Vidhan Sabha for the year 1957 of the said Constituency.

2. That the Respondents 1 to 8 above contested the election and two candidates namely Shri Jagan Nath, son of Shri Salig Ram and Shri Jagan Nath, son of Shri Maya Das, retired from the contest under Section 554 of the Representation of People Act of 1951 before the polling took place.

3. That Respondent No. 1 was set up as a candidate by the Indian National Congress party and Respondent No. 2 was set up by Bhartiya Jan Sangh.

4. That the Polling of the said Respondents above-named took place on the 3rd March, 1957, and that the Returning Officer declared the above-named Respondent No. 1 as elected. The votes secured by each of the said contesting candidates are noted against their names in the following:—

Mr. Braham Prakash—63,848.

Mr. Shyam Charan Gupta—48,248.

Shrimati Gurcharan Kaur—1,360.

Shri Hukam Chand—1,475.

Shri Tribhuvan Datt Bhuvnesh—925.

Shri Sodhi Pindi Das—1,151.

5. That corrupt practices had been committed by Respondent No. 1. above-named and/or corrupt practices had been committed in the interests of the said returned candidate, Respondent No. 1, by person or persons other than the said candidate or his election agent, or by person or persons acting with the consent of the said Respondent No. 1 or his election agent as have been stated herein below.

6. That in the event the result of the election in so far as it concerns the returned candidate has been materially affected by corrupt practices committed in the interest of the returned candidate by persons other than the candidate or his election agent or by person acting with the consent of the returned candidate or election agent. Particulars of such corrupt practices are given in the following paragraphs and also in Schedules.

7. That there were publications by the said returned candidate Respondent No. 1 or his agent or by some other person of statement of facts which were false and which he either believed to be false or did not believe to be true in relation to the personal character or conduct of the Respondent No. 2 and the same were calculated reasonably to prejudice the prospects of the election of the said Respondent No. 2.

8. That on or about 1st March, 1957, posters were published in Nagri character under the signatures of one Om Parkash Sharma, describing himself as Mantri Yuvak Samaj, Sadar Bazar, Delhi, printed by Gupta printing works which is situated at Esplanade Road, Delhi, and were posted in several places in the Delhi Constituency, stating amongst others the following allegations against Respondent No. 2.

A. Why does the Respondent No. 2 hold out as B.A. with Honours when he is only Matriculate in English?

- B. Why has the Respondent No. 2 taken forcible possession of the R.S.S. Godown?
- C. Why is it said that the Respondent No. 2 has swallowed a large amount of R.S.S. Fund?
- D. Why did Respondent No. 2 go out of Delhi when his turn to proceed to Goa arrived on the excuse of some of his relatives being ill?
- E. Why has the Respondent No. 2 misappropriated the sale proceeds of a Jeep belonging to R.S.S. ?
- F. Why did the Respondent No. 2 accuse the displaced persons after having come to Delhi of having destroyed the entire culture and language of Delhi in a speech delivered by him at a public meeting at Ghaziabad?
- G. Why should the public elect the Respondent No. 2 a worthless and cowardly person like the Respondent No. 2 to the parliament?

and that a true copy of the said poster as published in the original Nagri character is annexed hereto and marked as Annexure A, and also a true photographic copy Annexure 'A'.

9. That the allegations contained in clauses A to G of para. 8 above were meant to give the following impressions:—

- A. That the Respondent No. 2 is only a Matriculate in English and he still falsely holds out as B.A. with Honours.
- B. That Respondent No. 2 has taken forcible possession of R.S.S. Godown.
- C. That Respondent No. 2 has swallowed a large amount of R.S.S. Funds.
- D. That Respondent No. 2 went out of Delhi when his turn to proceed to Goa arrived on the excuse of some of the relatives being ill.
- E. That the Respondent No. 2 has misappropriated the sale proceeds of a Jeep belonging to R.S.S.
- F. That Respondent No. 2 accused the displaced persons of having spoiled the entire culture and language of Delhi.
- G. That Respondent No. 2 was a useless and cowardly person.

10. That the aforesaid allegations as mentioned hereinbefore in Annexure A were quite false to the knowledge of said Respondent No. 1 or his agent or other persons who were responsible for the publication of the said poster and circulation thereof by pasting them in conspicuous places upon the walls in different parts of the Delhi Sadar Constituency and elsewhere that the said posters were published and circulated with the ulterior object of causing serious prejudice to the prospect of the election of the Respondent No. 2 abovenamed.

11. That the aforesaid allegations were again repeatedly published on or about the same date by the said Respondent No. 1 and/or his agent and/or other persons knowing the said allegations to be false and published in the persian script over the signature of said Om Prakash and printed by Gupta Printing Press situated at Esplanade Road, Delhi, and that a true copy of the said poster is annexed hereunto and is marked as Annexure B, and that your petitioner humbly submits further that the said poster was published and circulated by the said Respondent No. 1 and/or his election agent or by other persons acting with the consent of the said Respondent No. 1 with the object of causing serious detriment and prejudice to the prospects of election of the Respondent No. 2 above named and in the interests of the returned candidate, said Shri Braham Prakash, Respondent No. 1 by said Om Prakash Sharma who is and/or was a member of the said Congress Party and/or was a member of the said Congress Party and/or is a pseudo name of the said Respondent No. 1 and the said posters were pasted in conspicuous places in Delhi Sadar Constituency.

12. That the order for printing of the aforesaid posters was given by the Delhi Pradesh Congress Committee and the bill was also made out in the name of the Pradesh Congress Committee, Delhi, of which Respondent No. 1 is the Vice president.

13. That these posters were prominently displayed in thousands in the whole of the Delhi Sadar Constituency and directly damaged the reputation of Respondent No. 2 and very materially and adversely affected the polling in

favour of Respondent No. 1, Shri Braham Prakash, the returned candidate and against the Respondent No. 2.

14. That the Respondent No. 2 is a member of Bhartiya Jan Sangh Party which is an All India recognised party. One of the main demands of this party has been the establishment of Akhand Bharat.

15. (a) That on or about 28th of February, 1957, posters purported to have been issued by a body known as Anti Communal Front and printed by Gupta Printing Works (at Esplanade, Delhi) were posted in several places in the Delhi Sadar Constituency asking the electorate to refrain from voting in favour of the party to which Respondent No. 2 belonged as the said party has amongst its demands that of Akhand Bharat which was the demand of Godse the murderer of Mahatma Gandhi, the Father of the Nation.

(b) That the posters described above were published in Dev Nagari Script and in Urdu Script with prominence given to the following words:—

“Rashtra Pita Gandhi Ki Hatya etc.”

“Gandhi ke Khun ko Kabhi Nahin Bhul Sakte”

(c) That there was a clear suggestion by the said posters that respondent No. 2 was one of those who directly or indirectly was involved in the murder of Mahatma Gandhi and that as such votes must not be cast in his favour.

(d) That a true copy of the said poster is annexed hereunto and marked as Annexure ‘C’.

16. That on Friday, the 1st of March, 1957, as about 7 P.M. Shri Govind Ballabh Pant, Hon’ble Minister for Home Affairs, Central Government addressed a public meeting in Delhi, and therein particularly addressed the traders of Delhi most of whom carry on their business in Delhi Sadar Constituency and are voters of Delhi Sadar Constituency.

17. That in the course of his speech with a desire to help the Congress Party candidate in general and returned candidate in particular, the said Pandit Govind Ballabh Pant, who at the time material to these proceedings was the Home Minister of the Central Cabinet made a promise to the traders of Delhi that the Government would so amend the sales tax law with regard to cloth as to levy it at the place of production and would also include it in the Hindustan Times, Page 1, under the heading “Pant’s Assurance to Traders” stating as follows:—

*By a Staff Correspondent*

“Pandit Pant said in Delhi on Friday evening that the Government would realise the sales-tax at the place of production and it will be included in the excise duty.

Pandit Pant, who was addressing an election meeting in support of Mr. Radha Raman, Congress Candidate in Chandl Chowk, assured the Traders of Delhi that the Government would try to meet their legitimate demands.”

A copy of the Hindustan Times dated 2nd March 1957 embodying the said promise is enclosed and marked as Annexure D.

18. That this promise made by the Union Minister was calculated to interfere with the free exercise of electoral right of votes by the traders of the Delhi Sadar Constituency and was further calculated to unduly influence the voters by this offer of gratification with the object of inducing the voters to vote for Respondent No. 1.

19. (a) That the said promise did in fact interfere with the free exercise of electoral right of the voters of the said Constituency.

(b) That undue influence was exercised by the said Shri Govind Ballabh Pant with the knowledge and consent of Ch. Braham Prakash, Respondent No. 1 in his interests.

(c) That on or about the 1st March, 1957, the Chief Commissioner of Delhi, a Gazetted Officer of the Government of India, with a view to render assistance to further the prospects of the Respondent No. 1's election ordered the

Commissioner of Sales-tax to issue a notification reducing the rate of sales-tax from 6½% to 1% on jewellery made of gold and silver with effect from 1st March 1957, and a press note embodying the said promise was issued on 4th March 1957 by Shri D. D. Kapila, Sale-tax Commissioner, Delhi, giving effect to the reduction from 1st March 1957 and that the said press note is attached hereto and marked as Annexure 'E'.

20. That the said action of the said Government servant was calculated to placate the gold and silvery jewellery dealers in the Delhi Sadar Constituency and it is in fact furthered the prospects of Respondent No. 1's election and caused serious prejudice to the interests of the Respondent No. 2.

21. That on or about 20th February, 1957, Ch. Murari Singh Revenue Assistant and Requisition Officer, Delhi, a Government Gazetted Officer of the Government acting illegally and arbitrarily with a view to assist in the furtherance of the prospects of Chowdhary Braham Prakash at the election made an announcement that property belonging to the firm of M/s Gulab Singh Johari Mal shall be acquired by the Government for the benefit of the Dara Ismail Khan Cooperative Society Ltd., members whereof are electors of the Respondents Constituency and the rate to be paid as compensation will be about Rs. 1200/- per bigha. That the usual rate of compensation hitherto for similar property has never been less than Rs. 5000/- per bigha. This in fact was done and it helped the returned candidate Shri Bharam Prakash.

22. That immediately after the said announcement, a poster was published and displayed over the signatures of the members of this Society amongst others calling upon the refugee voters to vote for Respondent No. 1 the returned candidate. The aforesaid corrupt practice was committed by a Government Officer to assist the said Ch. Braham Prakash at the election and did in fact help him.

23. That the said Respondent No. 1 or his agent or any other person or persons on his behalf indulged in corrupt practice by promising cash payment to the voters who brought back their ballot papers, without casting them so that the said purchased ballot papers might later on be dropped in the ballot box of the said Respondent No. 1 by his trusted voters. With regard to this corrupt practice, your humble petitioner states amongst others as follows:—

(a) Two ballot papers issued from the Polling Station No. 37, situate at M.B. School (Boys) Basti Punjabiyan, Sabzimandi (House No. XII/2495) were found in the Polling Station No. 61 situated at Rajwar Shikaba Niketan House No. XII/5212, Kolhapur Road, Jawaharnagar of the said Constituency and these ballot papers were found in the ballot box of the said Respondent No. 1.

24. That Respondent No. 1 or his agent or any other person or persons on his behalf and at his instance obtained or procured or abetted or attempted to obtain or procure the assistance (other than the giving of vote) for the furtherance of the prospects of the said election of the said Respondent No. 1 from persons in the service of the Government and that amongst others the following particulars are set out:—

That Shri Gopi Nath Aman, who is the Chairman of the Public Relations Committee of the Delhi Administration and as such a Government servant canvassed and persuaded the voters to cast their votes in favour of Respondent No. 1 and that as such the said Respondent No. 1 obtained and procured the services of the said Government servant for the furtherance of his election prospects and as such it was detrimental to the interests of the said Respondent No. 2 and that amongst others, the said Gopi Nath Aman on the 24th February, 1957, unduly influenced the voters at Fayazganj, Tokari Walan and Patri Nahar, of said Constituency.

25. That the ballot boxes of the polling station No. 20, situate at M.B. Primary School, Sohan Ganj, House No. XII/1799'48 polling station No. 37, M.B. School (Boys) Basti Panjabiyan, Subzimandi, Delhi (House No. XII/2495) and Polling Station No. 48 situate at Rajwar Shiksha Niketan, House No. XII/5212 Kolhapur Road, Jawaharnagar, were found to be defective inasmuch as they could be opened without breaking the green seals of the said ballot boxes and that this fact was brought to the notice of the Chief Election Officer verbally on the 6th March, 1957 and also before the Returning Officer in writing on the 7th March, 1957.

26. That thereupon permission of the Returning Officer was sought to examine and verify as to whether the ballot boxes had not been tampered with and that the said Returning Officer quite wrongfully and illegally refused to allow the examination of the said ballot boxes.

27. That, the said Respondent and/or his agent and/or other person or persons on behalf of said Respondent No. 1 threatened amongst others the voters of Gurki-mandi, Mahi Karim, Andha Moghul and others, with total eviction and complete uprooting in the event of their voting against No. 1 and in favour of Respondent No. 2 and thus secured their vote causing serious detriment to the prospect of the election of the said Respondent No. 2.

28. That Respondent No. 1 and/or his agent and/or any other person or persons at the instance and on behalf of the said Respondent No. 1 induced the voters by illegal gratification to vote in favour of Respondent No. 1 amongst others at the polling station No. 37, situation at M.B. School (Boys) Basti Punjabiyan, Subzi-madi, (House No. XII/2495) and also at the polling station No. 61 situate at Government Labour Welfare Centre, Block No. D/158, Kamlanagar, Delhi.

That your Petitioner is attaching hereto a Government Treasury Receipt No. 1580 dated 17th April 1957. showing that a deposit of Rupees one thousand only, has been made by him in the Government Treasury in favour of the Secretary to the Election Commissioner as security for the costs of the petition and marked as Annexure.

**29. Prayer**

It is therefore respectfully prayed that the election of Respondent No. 1, the returned candidate, Shri Braham Prakash, be declared void and the same as such be set aside;

And such other relief and orders be passed as be deemed appropriate.

RAMPHAL.....Petitioner

through

P. K. CHAKRAVARTY

Advocate, Supreme Court.

DELHI:

Dated: the 29th April, 1957.

*Verification*

I, Ramphal, petitioner, above-named do verify that paragraphs 1 to 9, 11, 13 to 15 and 18 to 20 of the above petitioner are true to my knowledge and paragraphs Nos. 10, 12, 16, 17, 21, to 29 are true to information received and believed to be true.

Verified at Delhi this 20th day of April, 1957.

*Petitioner*

Annexures A to F having considered not to be the parts of the petition are not published.

[No. 82/140/57.]

By order,

DIN DAYAL, Under Secy.